

## RESOLUTION NO. HO-2011-01

### A RESOLUTION OF A HEARING OFFICER OF THE CITY OF NEWPORT BEACH DENYING REASONABLE ACCOMMODATION NO. 2011-001 FOR A RESIDENTIAL CARE FACILITY LOCATED AT 2927 PAPER LANE AND OPERATED BY STEPHOUSE RECOVERY, INC. (PA 2011-117)

**WHEREAS**, Chapter 20.52 of the Newport Beach Municipal Code (NBMC) sets forth a process to provide reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling; and

**WHEREAS**, an application was filed by George J. Vilagut, on behalf of StepHouse Recovery, Inc., with respect to property located at 2927 Paper Lane, and legally described as Lot 8 of Tract 3068, requesting accommodation from the requirements of Newport Beach Municipal Code (NBMC) Section 20.18.020 (Residential Zoning Districts Land Uses and Permit Requirements) to allow the continued operation of an existing sober living home for up to 6 male adult resident clients and one resident manager. The facility is located in the R-1-6000 Zoning District, where such uses are not permitted, and the applicant requests an accommodation from the requirements that sober living facilities are permitted only in RM and RMD Zoning Districts with approval of a Conditional Use Permit; and

**WHEREAS**, a public hearing was held on September 30, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the NBMC and other applicable laws. Evidence, both written and oral, was presented and considered at this meeting; and

**WHEREAS**, the hearing was presided over by Hon. John C. Woolley, retired Judge (California Superior Court, Orange County), Hearing Officer for the City of Newport Beach; and

**WHEREAS**, the required findings of Section 20.52.070 (D.2) of the NBMC and facts that support or do not support such findings are as follows:

1. **Required Finding: The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.**

Facts in Support of Finding: StepHouse Recovery, Inc. submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol and/or drug addiction. Federal regulations and case law have defined recovery from

alcoholism and drug addiction as a disability because it is a physical or mental condition that substantially impairs one or more major daily life activities.

**2. Required Finding: The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.**

Facts in Support of Finding: Consistent with court decisions, applicants requesting reasonable accommodation are required to demonstrate the necessity of the accommodation request by showing disabled residents will receive a therapeutic benefit that directly ameliorates an effect of their handicap at the requested population levels and/or location (also referred to as "affirmatively enhancing the quality of life" of a disabled individual or individuals). It is the applicant's burden to demonstrate that the requested accommodation is necessary. The "necessary" element requires the demonstration of a direct linkage between the proposed accommodation and the 'equal opportunity' to be provided to the handicapped person.

The exemption requested by StepHouse would allow facility residents to enjoy the housing type of their choice in a single-family residential district. In its application package, the applicant provided statements consistent with court opinions that found living in a single-family residential neighborhood with other persons in recovery from alcohol and drugs directly ameliorated an effect caused by the recovering alcoholic or addict's particular disability.

Current residents: The Hearing Officer does not question the need for residential care facilities, nor the fact that persons with a disability must have the opportunity to use and enjoy a dwelling. The facility currently provides housing to residents who could be denied housing if abatement proceeds while they are still in residence at the facility prior to the expiration of the rental agreement with the property owner (April 30, 2012). Denying the accommodation, subject to operational conditions consistent with the Conditional Abatement issued by the City on July 13, 2011, to allow all current residents to complete their intended stay would allow these residents an equal opportunity to use and enjoy their current dwelling. The notice of Conditional Abatement is attached hereto as Exhibit "A" and incorporated by reference.

Future residents: The Hearing Officer also considered whether granting a reasonable accommodation to allow this facility to remain in its current location is necessary to allow potential future disabled residents to use and enjoy the housing type of their choice. Without the accommodation, potential future residents seeking to integrate into a sober lifestyle by living in a small sober living environment in a single-family neighborhood and surrounded entirely by single housekeeping units would be deprived of an opportunity to live in this type of dwelling situation. There are no sober living facilities currently authorized by the City providing housing for not more than six persons in a neighborhood designated for single-family detached dwellings.

*Factors of consideration - necessity:*

Pursuant to NBMC Section 20.52.079 (D.3), the Hearing Officer may consider, but is not limited to, the following factors in determining whether the requested accommodation is the minimum necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

*Necessity Factor A. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.*

If the accommodation were granted, the applicant's current and potential future clients would be able to live in a single-family dwelling in an R-1-6000 Zoning District with other individuals in recovery from addiction. This is a situation that could affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' reintegration into society.

In this case, the facility is surrounded on all sides by single housekeeping units within single-family dwellings. This facility appears to be the only residential care facility of any description on this street or any adjacent streets in the Anniversary Tract. The nearest City-authorized residential care facility in the City is located in a duplex building at 492 and 492 ½ Orange Avenue, approximately 4 miles away. However, that facility is located in an R-2 Zoning District, and is approved to provide housing for up to 12 persons in each dwelling unit. City records indicate one other authorized residential care facility located in a neighborhood designated for single-family detached dwellings. That facility is located approximately 6.25 miles away at 49 Montecito Drive in Corona del Mar, and is licensed by ADP to provide 24-hour residential nonmedical alcohol and/or drug recovery, treatment, and detoxification services for six or fewer adult women.

*Necessity Factor B. Whether the individual(s) with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.*

With denial of the requested accommodation, abatement proceedings will commence against the facility upon the expiration of the rental agreement on April 30, 2012, pursuant to the notice of Conditional Abatement issued to StepHouse on July 13, 2011. Any potential future clients of this facility could be denied the opportunity to live in a single-family dwelling with a population of six or fewer individuals in recovery from addiction in a single-family residential neighborhood.

City records indicate one other residential care facility located in a neighborhood designated for single-family detached dwellings. This facility is licensed by ADP

to provide 24-hour residential nonmedical alcohol and/or drug recovery, treatment, and detoxification services for six or fewer women, and therefore is not appropriate for the male population of this StepHouse facility. However, City records indicate several other facilities in the City which provide a sober living self-paced environment for six or fewer persons in a single unit of a duplex structure located in the R-2 Zoning District.

*Necessity Factor C. In the case of a residential care facility, whether the requested accommodation is necessary to make the facility, or facilities of a similar nature or operation economically viable in light of the relevant market and market participants.*

The applicant does not state why an exemption from the Residential Zoning District Land Uses and Permit Requirements is necessary to make its facility economically viable in light of the relevant market and market participants. The applicant does state that the facility provides well-kept housing with reliable services (rent and bills paid) with moderately upscale features, and that the dwelling will operate in a manner that is consistent and compatible with adjoining and surrounding properties. A resident manager resides on-site to ensure that resident clients comply with the house rules.

*Necessity Factor D. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

In May 2011, City staff estimated there are approximately 359 authorized sober living facility client beds in the City (these numbers are exclusive of the up to 213 ADP-licensed treatment beds), although the actual number of occupied beds is likely to be less than 359 client beds. With the recent termination of the City's development agreement with Morningside Recovery, LLC, the number of authorized sober living client beds has been reduced by 36. Operators of many residential care facilities within the City have reported decreased census and vacant beds, which could provide potential StepHouse clients with an equal opportunity to live in a sober living environment without granting the accommodation. However, none of those facilities are located in a single-family home in an R-1 Zoning District.

3. ***Required Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.***



Facts in Support of Finding: The applicant states the residents are not transient, and has reported that the typical length of stay is six months, up to one year or longer. Allowing the facility to remain at its current location until the expiration of the rental agreement on April 30, 2012, consistent with the provisions of the Conditional Abatement issued by the City on July 13, 2011, would provide disabled individuals with an equal opportunity to use and enjoy a dwelling, and would not impose an undue financial or administrative burden on the City.

**4. *Required Finding: That the requested accommodation will not result in a fundamental alteration in the nature of a City program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.***

Facts Do Not Support the Finding: The Hearing Officer has determined that authorizing the continued use by an operator who established a facility illegally would undermine a basic purpose of the City's General Plan and Zoning Code, and would result in a fundamental alteration in the nature of a City program. This determination is based upon facts provided in the staff report and testimony provided during the public hearing.

During the public hearing, the applicant acknowledged the StepHouse facility was established in April 2010 without first applying for and receiving a reasonable accommodation from the City. This is a violation of Section 20.18.030 of the NBMC, which prohibits "Residential Care Facilities, Limited Unlicensed" uses in the R-1-6000 Residential Zoning District. The applicant also acknowledged that StepHouse had advertised itself as a "licensed" facility on its website during the public hearing. Advertising as a licensed facility is a violation of Section 11834.30 of the California Health and Safety Code and the California Code of Regulations (CCR), Title 9, Chapter 5, Section 10505 (b). In an email to the City dated May 24, 2011, the applicant informed City staff he "just completed working with our SEO/Webmaster who mistakingly [*sic*] added the word on accident." At the public hearing, the applicant submitted a letter purported to be prepared by the webmaster, and stated on the record that the webmaster "forgot to add the letters 'u n' to the word 'licensed'," contradicting the information provided to City staff in May.

Policy LU 6.2.7 of the City of Newport Beach General Plan requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-5 in order to implement General Plan Policy LU 6.2.7. The Zoning Code is the primary tool utilized to carry out the goals, objectives, and policies of the General Plan. Section 20.10.020 of the Zoning Code sets forth the basic purpose of the Zoning Code, which is intended to "promote the orderly development of the City; promote and protect the public health, safety, peace, comfort, and general welfare; protect the character, social, and economic vitality of neighborhoods; and to ensure the beneficial development of the City."

To implement the stated purposes of the General Plan and Zoning Code, Ordinance No. 2008-5 placed regulations on all groups not living either as single housekeeping units or in a residential care facility classified as "Residential Care Facilities, Limited (6 or fewer) Licensed." These regulations are in place to ensure that the fundamental purposes of the Zoning Code can be achieved, and so that adverse secondary impacts that residential care facilities may have on the surrounding neighborhood can be mitigated. The Zoning Code requires that:

- Unlicensed residential care facilities may not operate in any residential district without approval of a Conditional Use Permit.
- An express purpose of requiring operational standards for Conditional Use Permits in residential zones is to ensure that conditional uses are operated in a manner consistent with federal, state and local law; and
- A required finding to grant approval of a Conditional Use Permit in a residential zoning district is that the operator does not have a demonstrated pattern or practice of operating similar uses in violation of federal, state or local law.

To support the General Plan's purpose of minimizing impacts of residential care facilities on residential neighborhoods, the Zoning Code regulates such facilities to the maximum extent permitted by law, even when granting reasonable accommodations. Waiving operational standards provided by a Conditional Use Permit, which were adopted by the City Council to provide the maximum protection required by the General Plan, would undermine a basic purpose of the General Plan and the Zoning Code.

When analyzing whether allowing a residential care facility to operate without the operational standards associated with a Conditional Use Permit undermines a basic purpose the use permit requirement was put in place to achieve, the Hearing Officer considered whether the facility meets the standards required to receive a conditional use permit. The standards established in NBMC Section 20.52.030 (G.2.c) were codified to ensure that residential care facilities would be well managed, not overcrowded, and operated in a manner consistent with federal, state and local laws, and to ensure that operators do not have a pattern or practice of operating similar uses in violation of federal, state or local law.

StepHouse established the facility in April 2010 without first applying for and receiving a reasonable accommodation from the City, which is a violation of Section 20.18.030 of the NBMC. StepHouse was found to have been advertising itself as a "licensed" facility on its website, which is a violation of state law. The Hearing Officer found that given the violations of the NBMC and state law, allowing StepHouse to continue operating at its current location would undermine one of the basic purposes and operational standards the Conditional Use Permit requirement was put in place to achieve. Specifically, the

use does not conform to the operational standards established by Section 20.52.030(G.2.c), as follows:

“The names of all persons and entities with an ownership or leasehold interest in the use, or who will participate in operation of the use, shall be disclosed in writing to the City, and these persons and entities shall not have a demonstrated pattern or practice of operating similar facilities in or out of the City of Newport Beach in violation of federal, State or local law.”

This operational standard is required for Conditional Use Permits “to ensure that conditional uses in residential zoning districts are operating in a manner that is consistent with federal, state, and local law . . .” (NBMC Section 20.52.03.G.2.)

When reviewing an application for a Conditional Use Permit in a residential district, the Hearing Officer may approve or conditionally approve a Conditional Use Permit only if all of the required findings can be made. This includes the findings that: (1) the proposed use is consistent with the General Plan, (2) the use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and Municipal Code, and (3) the use would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

The General Plan requires that residential care facilities be regulated to the maximum extent allowed by state and federal law. The Hearing Officer has determined that overlooking the violations of local and state law by StepHouse, and waiving the Conditional Use Permit operational standards related to those violations is not consistent with the provisions of the General Plan. The establishment of “Residential Care Facility, Small Unlicensed” uses in residential zoning districts where such uses are not permitted without first applying for and receiving a reasonable accommodation would be detrimental to the harmonious and orderly growth of the City.

Section 20.52.070 (D.1.a) provides that the Hearing Officer “shall issue a written determination to approve, conditionally approve, or deny a request for reasonable accommodation....” Therefore, the Hearing Officer may impose the same operational conditions that he or she could impose under a Conditional Use Permit. With appropriate operational conditions, a reasonable accommodation can mitigate adverse secondary impacts such as noise, insufficient parking, excessive second-hand smoke, unruly behavior by residents of the facility to the detriment of the neighbors.

The Hearing Officer has determined that if appropriate operational conditions are placed on the operations of the facility during the Conditional Abatement period established by the City on July 13, 2011, the use during that period will not undermine the basic purpose of the Conditional Use Permit requirement. Further, allowing StepHouse to

operate at the subject location until the expiration of the rental agreement between the property owner and StepHouse (April 30, 2012) will allow StepHouse to meet its' obligations to the existing clients living in the facility, and will not result in City actions depriving any disabled individuals of their current housing. The operational conditions are set forth in Exhibit "B" of this resolution, and incorporated by reference.

*Factors of Consideration – fundamental alteration/reasonableness:*

Pursuant to Section 20.52.079 (D.4) of the NBMC, the Hearing Officer may also consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of a City program:

*Factor A. Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

The City has received numerous letters, emails and phone calls from the neighbors reporting negative secondary impacts on the neighborhood since the StepHouse facility has established in the neighborhood. The impacts reported include: inhabitants of StepHouse and its guests speeding up and down the streets in cars, increased traffic, excessive use of on-street parking of facility residents and/or guests, persons loitering in the front yard of the facility and in the neighborhood, and vandalism in neighborhood. However, as of publication of the staff report, the City's Code Enforcement Division was unable to confirm and substantiate that the StepHouse facility was the cause of these impacts.

The Newport Beach Police Department reported a call for service on September 18, 2011, which resulted in the arrest of a suspect for criminal threats to a resident of StepHouse. The suspect was a former resident, and when he returned to StepHouse he was told to leave since he was not longer a resident, at which point he became enraged and made threats of bodily harm.

*Factor B. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.*

Parking - The site plan provided by the applicant indicates there is a two-car garage and two driveway parking spaces that would allow for the parking of staff and resident client vehicles without impacting the neighborhood. However, testimony provided during the public hearing by the "houseparent" of the facility indicated the garage is not available for the parking of vehicles due to unauthorized conversion of the space to a living/sleeping area. Thus, the existing facility may not currently provide sufficient parking as required by the NBMC.



Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a single family dwelling, the standard trip rate is based on 9.57 average daily trips per dwelling. Trips rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a 6-bed residential care facility is estimated to generate approximately 16.44 average daily trips. Applying this formula, the facility will generate average daily trips in excess of the surrounding single family dwellings.

*Factor C. Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable specific plan.*

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law to minimize impacts on residential neighborhoods. The City adopted Ordinance No. 2008-5 in order to implement General Plan Policy LU 6.2.7. Under the conditions described in the Finding 4 analysis above, the Hearing Officer determines that granting the requested accommodation would substantially undermine an express purpose of the General Plan.

*Factor D. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.*

There are no other documented facilities similar in nature or operation to the subject facility within this block or any of the immediately adjacent blocks. Thus, if the reasonable accommodation were granted with a condition of approval limiting the maximum occupancy of the facility to six residents and one full-time staff member, the requested accommodation would not create an institutionalized environment.

5. ***Finding: The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.***

Facts in Support of Finding: A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others." See 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by

disabled persons. In this case, the Hearing Officer finds there are no facts that suggest granting the requested accommodation would result in a significant and particularized threat.

**WHEREAS**, this activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines. It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and therefore it is not subject to CEQA.

**NOW THEREFORE, BE IT RESOLVED:**

**Section 1.** The Hearing Officer of the City of Newport Beach hereby denies Reasonable Accommodation No. 2011-001, subject to the Operational Conditions set forth in Exhibit "B" attached hereto and made a part hereof.

**Section 2.** This action shall become final and effective fourteen (14) days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20, Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 12<sup>th</sup> DAY OF OCTOBER 2011.**

By: \_\_\_\_\_

Hon. John C. Woolley, retired Judge  
(California Superior Court, Orange County)  
Hearing Officer for the City of Newport Beach

ATTEST:

*for*  **DEPUTY  
CITY  
CLERK**  
\_\_\_\_\_  
City Clerk



## **EXHIBIT "A"**

Conditional Abatement issued to  
StepHouse Recovery, Inc.  
On July 13, 2011



# CITY OF NEWPORT BEACH

## OFFICE OF THE CITY ATTORNEY

David R. Hunt, City Attorney

July 13, 2011

*Via U.S. Regular Mail and  
Email: [thestephouse@gmail.com](mailto:thestephouse@gmail.com)*

Mr. George Vilagut  
Executive Director  
StepHouse Recovery, Inc.  
2927 Paper Lane  
Newport Beach, CA 92660

RE: Conditional Abatement: Paper Lane, 2927 (StepHouse)  
Matter No.: A11-00528

Dear Mr. Vilagut:

Thank you for meeting with Associate Planner Janet Brown and me last week to discuss the reasonable accommodation application you have submitted for StepHouse Recovery, Inc. ("StepHouse"). We appreciate your cooperation in providing us with the additional information the City requires.

The land use classification for StepHouse's 2927 Paper Lane facility is Residential Care, Limited Unlicensed. As we discussed, this conditional abatement notice is being sent to you because StepHouse established its 2927 Paper Lane facility in a Single-Unit Residential (R-1) zoning district, where such uses are prohibited, without first applying for and receiving a reasonable accommodation from the City. Therefore, StepHouse's 2927 Paper Lane facility currently constitutes an illegal use, and is subject to abatement.

As requested by the City, you have supplied us with copies of StepHouse's lease with the owner of 2927 Paper Lane, which expires on April 30, 2012. You have also provided us with redacted copies of the rental agreements StepHouse has entered with its current residents. The five rental agreements appear to expire on, respectively, September 7, 2011, November 15, 2011, February 1, 2012, April 1, 2012 and June 4, 2012.

The documents you provided establish to the City's satisfaction that you have existing contracts with disabled residents. You have also agreed not to accept any new resident clients at 2927 Paper Lane until the hearing on your reasonable accommodation application has occurred and a determination is issued by the City's independent hearing officer.



Mr. George Vilagut  
July 13, 2011  
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Although the use is currently subject to abatement, to allow you to fulfill your obligations to your existing disabled clients, the City will refrain from instituting abatement proceedings until the expiration of StepHouse's existing lease with the owner of 2927 Paper Lane, April 30, 2012. This conditional abatement date will apply only if the hearing officer denies StepHouse's reasonable accommodation application. If the requested accommodation is denied, the hearing officer may adjust this date to allow current StepHouse residents to complete their intended length of stay.

As we discussed, StepHouse must complete its application within 30 days of our July 7, 2011 meeting. Staff will schedule an administrative hearing within 90 days of the date it determines the application is complete.

Thank you for your cooperation. If you have questions, please feel free to contact the undersigned at (949) 644-3131, or Janet Brown at (949) 644-3236.

Sincerely,

OFFICE OF THE CITY ATTORNEY



Catherine Wolcott  
Deputy City Attorney

CW:da

cc: Janet Brown, Associate Planner  
Kimberly Brandt, AICP, Community Development Director

## **EXHIBIT "B"**

Abatement Conditions Associated with Denial of  
Reasonable Accommodation No. 2011-001  
StepHouse Recovery, Inc.  
2927 Paper Lane, Newport Beach

## EXHIBIT "B"

### ABATEMENT CONDITIONS ASSOCIATED WITH DENIAL OF REASONABLE ACCOMMODATION NO. 2011-001

StepHouse Recovery, Inc.  
2927 Paper Lane, Newport Beach

1. **Abatement Period.** This use shall abate no later than April 30, 2012, consistent with the notice of Conditional Abatement issued to StepHouse Recovery, Inc., hereinafter referred to as "Operator," on July 13, 2011.
2. **Occupancy Level.** The Operator shall limit occupancy of the dwelling to six (6) client beds and one on-site resident manager, who shall be a qualified recovery specialist. No more than six (6) persons in recovery may reside in the dwelling. Operator shall not accept any new resident clients during the abatement period as specified in the notice of Conditional Abatement issued by the City on July 13, 2011.
3. **Staffing.** Operator shall have one qualified manager on-site at all times clients are present at the facility to appropriately and responsibly manage the facility.
4. **Governmental Referrals.** Operator shall not provide any services to any client or house any client who has been referred or caused to be referred to this facility by any governmental agency, including but not limited to probationers or parolees.
5. **Assembly Uses.** Assembly uses, including meetings and gatherings with non-resident attendees, are prohibited at the facility, except those that are limited solely to client residents of the facility and facility staff.
6. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the Newport Beach Municipal Code, all other laws and best industry standards and practices.
7. **Trash.** Operator shall abide by the City's regulations regarding trash disposal including providing the proper amount of trash cans for the property's use (so that cans do not overflow), placing the cans out no earlier than 7:00 p.m. the evening prior to collection, and placing the cans back in the side yard (or other contained area) no later than 6:00 p.m. the day of collection.
8. **Smoking & Cigarette Litter.** No clients, guests, or any other users of the subject property may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the use is located. StepHouse Recovery, Inc. shall enforce house rules against litter, including prohibiting clients, staff, and/or residents from littering cigarette butts on the ground, sidewalk, gutter or street.

9. **Vehicles, Parking & Garages.** All vehicles associated with this facility, including the client transportation vehicle, shall park on site. This facility may have a maximum of four (4) vehicles associated with its use. The Operator shall keep the two (2) designated garage parking spaces at the facility open and available for parking for staff and resident clients at all times. Client move-out shall be accomplished in such a manner that traffic on area streets and/or neighboring driveways is not blocked.
10. **Transportation.** Facility residents and staff shall abide by and respect all City rules regarding parking, stopping and waiting to load and unload resident clients, and driving on City streets. All client transportation drivers are prohibited from stopping or double-parking in a traffic lane, or blocking a sidewalk.
11. **Quiet Hours.** The on-site facility manager shall maintain "Quiet Hours" between 10:00 p.m. to 8:00 a.m., daily, where persons on the street or on adjacent properties cannot hear any noise (including music, TV's, voices) from the facility except in an emergency.
12. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.
13. **Deliveries.** Any deliveries of business products, or other other packages, goods, or other tangible items to the facility shall be made during weekdays between the hours of 9:00 a.m. and 5:00 p.m.
14. **Contact Information.** Operator shall provide area residents and the City with a 24/7 contact name, phone number and e-mail address to assist residents and the City with problems or concerns arising from the facility. E-mails or messages left for the Operator's designated contact shall be responded to within the next 24-hour period.
15. **Building and Zoning.** Operator recognizes that the subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of obstructions, including building obstructions. The orderly storage of trashcans is acceptable in setbacks.
16. **Facility Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regard to any of these issues, Operator shall correct the violation within seven (7) days or contact the City directly to negotiate a mutually agreeable timeline.



17. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches and/or other common or public gathering places for meetings, prayer, conversation, or any other gatherings shall show due respect to non-resident visitors, residents, and/or other beachgoers, thus allowing them to take full enjoyment of the beach and/or other common or public gathering places. Operator shall not conduct business on the beach and/or other common or public gathering places (per NBMC 10.08.030).
18. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and encouragement of 12-Step meetings or counseling). Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home.
19. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this reasonable accommodation shall not constitute a waiver of the requirements of any federal, state or local law, including the requirements of the California Building Code and Fire Code.
20. **Compliance with Conditions.** Operator shall comply with these conditions during the conditional abatement period, which concludes on April 30, 2012.

# # #